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Pages (including cover): 25   Client Code: AVALUC -01701

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MESSAGE:

<div align="right">PATENT

Attorney Docket No.: <u>AVALUC-01701</u></div>

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	) Group Art Unit: 2143
	)
Louis Bouchard *et al.*	) Examiner: Dennison, Jerry
	)
Serial No.: 09/697,113	) TRANSMITTAL LETTER
	)
Filed: October 25, 2000	) 162 North Wolfe Road
	) Sunnyvale, California 94086
For: INSTANT MESSAGE	) (408) 530-9700
NOTIFICATION APPLICATION	)
	) Customer Number 28960

RECEIVED

SEP 1 3 2005

Technology Center 2100

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the facsimile sent on September 1, 2005 enclosed is the revised appeal brief for filing with the U.S. Patent and Trademark Office.

The Commissioner is authorized to charge any additional fee or credit any overpayment to our Deposit Account No. <u>08-1275</u>. An originally executed duplicate of this transmittal is enclosed for this purpose.

Respectfully submitted,
HAVERSTOCK & OWENS LLP

Dated: <u>September 8, 2005</u>

By: _____
Thomas B. Haverstock
Reg. No.: 32,571

Attorneys for Applicants

- 1 -

PATENT

Atty. Docket No.: AVALUC-01701

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	)	Group Art Unit: 2143
	)	
Louis Bouchard et al.	)	Examiner: Dennison, Jerry
	)	
Serial No.: 09/697,113	)	**RECEIVED**
	)	
Filed: October 25, 2000	)	**APPEAL BRIEF** **SEP 1 3 2005**
	)	
For: **INSTANT MESSAGE**	)	Technology Center 2100
NOTIFICATION APPLICATION	)	
	)	162 N. Wolfe Rd.
	)	Sunnyvale, CA 94086
	)	(408) 530-9700
	)	
	)	Customer No. 28960

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In furtherance of patent owner's Notice of Appeal filed on October 15, 2004, an Appeal Brief is submitted herewith in triplicate. This Appeal Brief is written in support of the patent owner's Notice of Appeal filed on October 15, 2004, and further pursuant to the rejection mailed on April 15, 2004 (Office Action of same date), and mailed on October 6, 2004 (Advisory Action of same date).

Claims 1, 3-20, and 22-27 have been rejected. The appellant submits this brief to the Board of Patent Appeals and Interferences in compliance with the requirements of 37 C.F.R. § 41.37, as stated in *Rules of Practice Before the Board of Patent Appeals and Interferences (Final Rule)*, 69 Fed. Reg. 49959 (August 12, 2004). The appellant contends that the rejection of Claims 1, 3-20, and 22-27 in this pending application is in error and is overcome by this appeal.

I.   REAL PARTY IN INTEREST

As the assignees of the entire right, title and interest in the above-captioned patent application, the real parties in interest in this appeal are the following parties:

> Avaya, Inc.
> 211 Mount Airy Road
> Basking Ridge, New Jersey 07920

per the assignment document recorded on March 2, 2001, at reel number 011354 and frame number 0502.

II.   RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences related to the present patent application of which appellant is aware.

III.   STATUS OF CLAIMS

Claims 1, 3-20, and 22-27 are pending within this application. Claims 1, 3-20, and 22-27 stand rejected under 35 U.S.C. § 103(a).

The rejections of Claims 1, 3-20, and 22-27 are being appealed.

IV.   STATUS OF AMENDMENTS

No amendments have been filed subsequent to the Advisory Action of October 6, 2004. The present condition of the claims is as listed in the Amendment and Response to Final Office Action filed on June 15, 2004.

V.   SUMMARY OF CLAIMED SUBJECT MATTER

The elements of Claim 1, directed to one embodiment of the present invention, are described in the Present Specification on page 4, lines 9-29. Claim 1 is directed to a method of providing message notification for a user. The claimed method steps are directed to the system illustrated in Figure 1. The method includes the step of coupling a message notification application 10 to a server 12. The server 12 stores messages for the user. The method also includes the steps of registering the message notification application 10 to at least one instant messaging service 14, accessing one of the at least one instant messaging service 14 by the user, and signing the user onto the message notification application 10 by adding the user to a buddy

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list of the message notification application 10 thereby associating the user to the one instant messaging service 14 which the user is currently accessing. The method also includes the step of sending an instant message notification from the message notification application 10 via the one instant messaging service 14 to the user when a message arrives on the server 12 for the user.

The elements of Claim 8, directed to another embodiment of the present invention, are described in the Present Specification on page 3, line 24 to page 4, line 3. Claim 8 is directed to an apparatus for providing message notification and allowing a user to instantly review new messages. The apparatus comprises at least one instant messaging service 14, a message notification application 10, a server 12, and an internet appliance 18. The message notification application 10 is registered to the at least one instant messaging service 14, wherein the message notification application 10 includes a buddy list onto which the user is added, thereby associating the user to one of the at least one instant message service 14 that the user is currently using. The server 12 stores messages and provides a medium for the message notification application 10 to operate. The internet appliance 18 accesses the server 12 and receives an instant message notification from the message notification application 10 via the one instant messaging service 14, the instant message notification indicates that a new message is stored on the server 12 for the user.

The elements of Claim 14, directed to another embodiment of the present invention, are described in the Present Specification on page 3, line 24 to page 4, line 3. Claim 14 is directed to a message notification system that allows the user to instantly review new messages. The message notification system comprises at least one instant messaging service 14, a message notification application 10, a server 12, and an internet appliance 18. The message notification application 10 is registered to the at least one instant messaging service 14, wherein the message notification application 10 includes a buddy list onto which the user is added, thereby associating the user to one of the at least one instant message service 14 that the user is currently using. The server 12 stores messages and provides a medium for the message notification application 10 to operate. The internet appliance 18 accesses the server 12 and receives an instant message notification from the message notification application 10 via the one instant messaging service 14, the instant message notification indicates that a new message is stored on the server 12 for the user.

The elements of Claim 20, directed to another embodiment of the present invention, are described in the Present Specification on page 3, line 24 to page 4, line 3, and the accompanying Figure 1. Claim 14 is directed to a message notification system for a user. The message notification system comprises means for coupling a message notification application 10 to a

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server 12, wherein the server 12 stores messages for the user. The means for coupling, as set forth in the Present Specification, page 4, lines 4-8, includes the message notification application 10 and the server 12 as two separate physical components (Figure 1), or in the same location (Figure 2). The message notification system also comprises means for registering the message notification application 10 to at least one instant messaging service 14 (as set forth in the Present Specification on page 3, lines 26-28), means for accessing one of the at least one instant messaging service 14 by the user (as set forth in the Present Specification on page 4, lines 9-14), and means for signing the user onto the message notification application 10 by adding the user to a buddy list of the message notification application 10 thereby associating the user to the one instant messaging service 14 which the user is currently accessing (as set forth in the Present Specification on page 3, lines 28-30, and page 4, lines 18-27). The message notification system also includes means for sending an instant message notification from the message notification application 10 via the one instant messaging service 14 to the user when a message arrives on the server 12 for the user (as set forth in the Present Specification on page 4, lines 22-24 and lines 28-30).

The elements of Claim 27, directed to one embodiment of the present invention, are described in the Present Specification on page 4, lines 9-29. Claim 27 is directed to a method of providing a voice messaging notification application for a user in an instant messaging system. The method includes the steps of coupling a message notification application 10 to a server 12. The server 12 stores messages for the user. The method also includes the steps of registering the message notification application 10 to at least one instant messaging service 14, accessing one of the at least one instant messaging services 14 by the user, and adding the user to a buddy list of the message notification application 10. The buddy list is associated with the one instant messaging service 14. The method also comprises the steps of sending an instant message notification to the user from the message notification application 10 via the one instant messaging service 14 when a message arrives on the server 12 for the user, and allowing the user access to the server 12 by one of using an internet appliance 18 and using a telephone (Present Specification, page 5, lines 4-5).

VI.   ISSUES

The issues presented by the appellant for review by the Board of Patent Appeals and Interferences are as follows:

1.   Whether the Claims 1, 3-20, and 22-27 are properly rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,535,586 issued to Cloutier et

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al. (hereafter "Cloutier") in view of U.S. Patent No. 6,449,344 issued to
Goldfinger et al. (hereafter "Goldfinger").

VII. ARGUMENT

A. Claims 1, 3-20, and 22-27 are Patentable over Cloutier in view of Goldfinger

Within the Office Action, Claims 1, 3-20, and 22-27 have been rejected under 35 U.S.C.
§ 103(a) as being unpatentable over Cloutier in view of Goldfinger.

Cloutier teaches a system to provide messaging services to alert a message service
subscriber to the receipt of a high priority message and to provide the remote retrieval thereof.
An email server 110 stores email messages received over the internet 130 (Cloutier, col. 1, lines
26-27). A messaging system server 120 provides access to the email server 110 via the internet
130 such that notification of high priority email messages received on the email server 110 are
provided by transmitting a wireless message to a wireless device 170 used by the subscriber
(Cloutier, col. 3, lines 62-66). The messaging system server 120 periodically polls the email
server 110 for new messages, and if a new message is received, then a unique message code
corresponding to the new message is generated by the messaging system server 120 (Cloutier,
col. 4, line 63 to col. 5, line 4). The unique message code is sent from the messaging system
server 120 to the wireless device 170 used by the subscriber (Cloutier, col. 5, lines 17-22). To
retrieve the new message, the subscriber accesses the messaging system server 120 using an
access device 190 connected via a user interface 140 (Cloutier, col. 4, lines 26-38).

Goldfinger teaches a communications system for locating a user who is connected to a
communications network. A first user 18 accesses a communications network 14 via a terminal
12 (Goldfinger, col. 5, lines 24-27). Once user 18 is connected to the network 14, a connection
notification apparatus 30 notifies a connection monitor 22 that user 18 is connected to network
14 (Goldfinger, col. 5, lines 37-40). The connection notification apparatus 30 is included in the
terminal 12, and the connection monitor 22 is part of a server 20, the server 20 also connected to
the network 14 (Goldfinger, Figure 1). An information apparatus manager 28 is also included
within the server 20 and maintains a list of all users currently connected, also referred to as on-
line, to the network 14 (Goldfinger, col. 5, line 61 to col. 6, line 2). A list of sought users which
the user 18 is interested in communicating with is provided by the user 18 to the information
apparatus manager 28 (Goldfinger, col. 6, lines 3-5). The information apparatus manager 28
determines if any of the sought users are currently connected to the network 14 (Goldfinger, col.
6, lines 13-18). If a sought user is connected, the information apparatus manager 28 causes an

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annunciator 24 to transmit an annunciation to user 18 (Goldfinger, col. 6, lines 19-24). The annunciator 24 is also included within the server 20 (Goldfinger, Figure 1). The annunciation is then sent to the user 18 (Goldfinger, col. 6, lines 42-48). In other words, the server 20, which includes the information apparatus manager 28 and the annunciator 24, generates the annunciation and sends the annunciation to the user.

The claimed invention is directed to an apparatus for and a method of providing message notification for a user through an instant messaging service. A message notification application 10 is registered to an instant messaging service 14 through an IP Network 16 such as the Internet or a private intranet (Present Specification, page 3, lines 26-28). The message notification application 10 maintains a buddy list corresponding to the instant messaging service 14 (Present Specification, page 4, line 20). In the case of multiple internet messaging services, a separate buddy list for each instant messaging service is maintained by the message notification application 10 (Present Specification, page 4, lines 24-27). When a number of users utilizing various instant messaging services 14 are signed up for the message notification application 10, the message notification application 10 can be registered with multiple instant messaging services 14 to enable it to communicate with users regardless of the instant messaging service 14 being utilized (Present Specification, page 3, line 33 to page 4, line 3). When the user logs onto the instant messaging service 14 using a particular internet appliance 18, the user instructs the message notification application 10 that the user desires to be notified when a new mail message is received by a message server (Present Specification, page 4, lines 18-20). The message notification application 10 then adds the user to the buddy list corresponding to the instant messaging service 14 currently used by the user (Present Specification, page 4, line 20).

The message notification application 10 operates on, or is coupled to, one of an application, voice messaging or unified server 12, hereinafter referred to as message server 12 (Present Specification, page 4, lines 4-5). When a new mail message is received by the message server 12, the message notification application 10 sends an instant message notification via the instant messaging service 14 for delivery to the user (Present Specification, page 3, lines 11-13 and page 4, lines 28-29). The instant messaging service 14 transmits the instant message notification to the internet appliance 18 currently used to access the instant messaging service 14 by the user (Present Specification, page 5, lines 12-16). The message notification application 10 does not directly transmit the instant message notification to the end user; instead, the message notification application 10 determines the proper instant messaging service 14 according to the buddy list currently listing the end user and then sends a message notification to the determined instant messaging service 14. In turn, the instant messaging service 14 sends an instant message

notification to the user. In this manner, the message notification application 10 functions as an interface between the message server 12 and the instant messaging service 14. As an interface, the message notification application 10 functions in a transparent manner such that the instant messaging service 14 perceives the message server 12 as another end user.

Within the present specification, a clear distinction is made between "instant message notifications" and "messages" (also referred to as "mail messages"). "Messages" are those data that are addressed to a particular end user and are stored on the message server 12. Examples of such "message" types include email messages, voice mail messages, and fax mail messages (Present Specification, page 5, lines 8-11). Users can be notified of received "messages" using different types of conventional "message notification systems", such as a "message waiting" indication light on a phone, "stutter" dial tone on a home phone, an icon or short message on a wireless handset's display, a numeric message to a pager and numerous others (Present Specification, page 2, lines 20-25). In contrast, "instant message notifications" are those data that are addressed to a particular end user and are instantly communicated to the particular user via a pop up box on the user's screen (Present Specification, page 1, lines 22-26). "Instant message notifications" are utilized within an Instant Messaging Service, which are well known in the art. Examples of specific Instant Messaging Services include AOL Instant Messenger®, MSN Messenger®, Yahoo! Messenger®, ICQ® or any privately-provided instant messaging service (Present Specification, page 3, lines 30-33). It is well known in the art that "messages" and "message notification systems" are different than "instant messaging notifications" and "instant messaging services".

The appellant contends that Claims 1, 3-20, and 22-27 are patentable over Cloutier in view of Goldfinger for at least the following reasons:

1.   There is not proper motivation to combine the communication system of Goldfinger with the messaging system of Cloutier. Within the Office Action mailed on April 15, 2004 (hereafter "Office Action"), and again within the Advisory Action mailed on October 6, 2004 (hereafter "Advisory Action"), column 1, lines 45-47 of Cloutier is cited as motivation to add the communication system of Goldfinger to the messaging system of Cloutier. Column 1, lines 45-47 of Cloutier teaches that "the lack of an instant or direct notification upon the receipt of a message is a significant shortcoming of many messaging system." However, "notification", as cited, refers in a general sense to "messaging systems", the same type of messaging systems described above (section V, "Summary of the Invention") where "messages" refer to email, voice mail, or fax messages(see Cloutier, col. 1, lines 55-58), and "message notification systems" are for example pagers (see Cloutier, col. 1 lines 48-52). The appellant agrees that improvement to

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the current state of message notification systems is needed. However, this is broad territory to cover and hardly a motivation to combine any possible function within a conventional message notification system. The present specification is directed to providing message notification advantages over conventional message notification systems and to providing the additional benefit of re-directing the message notifications to whatever device the user is currently using. The present invention provides both benefits by incorporating an Instant Messaging Service. Cloutier does not address the problem of re-directing a message notification to whatever device is currently being used by the user. Therefore, since this problem is not addressed within Cloutier, there is no motivation to combine an Instant Messaging Service within the messaging system of Cloutier. Moreover, there is no specific motivation to select the device the user is then using. In fact, although Cloutier teaches the need for a complementary system through which a user can retrieve an electronic message remotely (Cloutier, col. 2, lines 6-8), subsequent discussion of such a complementary system does not hint at, teach or suggest the implementation of an Instant Messaging Service.

2.   The proposed combination of Cloutier in view of Goldfinger does not result in a viably functioning system. Within the Office Action, it is stated that the message server 12 of the present application is the same as the server 110 of Cloutier, that the message notification application 10 of the present application is the same as the messaging system server 120 of Cloutier, that the instant messaging service 14 of the present application is the same as the server 20/ network 14 of Goldfinger, and that the internet appliance 18 of the present application is the same as the end user terminals 12,16 of Goldfinger. In column 2, lines 34-41, Cloutier teaches that to notify a user that a message has been received at the server 110, the messaging system server 120 generates a unique message code and transmits this code to the end user. However, Cloutier also specifically teaches that transmission of the code is made "using any number of real time delivery device such as a pager, computer connected over a network such as the internet, a PCS phone with SMS messages, etc." This is the exact type of conventional delivery means that the present invention is designed to overcome. On page 2, lines 20-25 of the present specification, such conventional delivery means are referred to as "message notification systems" which include sending numeric messages to a pager, just as Cloutier teaches sending a unique message code to a pager. In contrast, the present invention includes a method of providing message notification for a user through an Instant Messaging Service (Present Specification, page 3, lines 5-6). As described in detail above, an Instant Messaging Service is not the same as a message notification system. Cloutier specifically teaches the use of a message notification system, which teaches away from the present invention, and by extension teaches away from any

combination using an instant messaging service, such as that described in Goldfinger. Since Cloutier teaches away from the type of messaging system taught in Goldfinger, the proposed combination of Cloutier and Goldfinger is not a viable combination.

3.   Neither Cloutier, Goldfinger, nor their proposed combination teaches "registering a message notification application to at least one instant messaging service", as claimed. Goldfinger is not cited for teaching this limitation. Within the Office Action, it is stated that Cloutier does teach this limitation. Specifically, column 4, lines 15-25 of Cloutier is cited to support this assertion. However, the cited passage of Cloutier teaches a messaging system server 120 sending a message notification over the internet 130 to a personal computer 190. In other words, Cloutier teaches sending a notification to an end user access device. Clearly, "sending a notification" and "registering with a service" is not the same. Further, there is no hint, teaching, or suggestion of registering a notification application, such as the messaging system server 120, to a messaging service, such as an instant messaging service, as claimed. Within the Advisory Action, it is stated that Cloutier teaches a system for notification of electronically stored messages for subscribers, where it is inherent that a registration process must be performed. The appellant respectfully disagrees with the conclusion that any inherent registration process is directed to registering a message notification system with an instant messaging service. If Cloutier does imply any registration process, which the appellant does not believe to be the case, then such an implication would be for the subscriber to be registered with the messaging system server 120. However, this is not what is claimed. It is specifically claimed that a message notification application is registered to an instant messaging service. There is no hint, teaching, suggestion, or implication within Cloutier to suggest that the messaging system server 120 is registered to any type of service, let alone an instant messaging service.

4.   Neither Cloutier, Goldfinger, nor their proposed combination teaches "signing the user onto the message notification application by adding the user to a buddy list of the message notification application thereby associating the user to the one instant messaging service which the user is currently accessing". Within the Office Action, it is stated that Goldfinger does teach this limitation. Specifically, column 6, lines 3-35 of Goldfinger is cited to support this assertion. The cited portion of Goldfinger teaches a server 20 that includes an information management apparatus 28 that maintains a list of users connected to the internet 14. In short, an active user list is maintained on the server 20 of Goldfinger. In direct contrast, the claimed limitation is directed to "adding the user to a buddy list of the message notification application" (emphasis added). As discussed above in part 2 of this section, within the Office Action a comparison is made in which the message notification application 10 of the present invention is asserted to be the same as the

messaging system server 120 of Cloutier, and the instant messaging service 14 of the present invention is asserted to be the same as the server 20/network 14 of Goldfinger. If this comparison is valid, which the appellant does not believe to be the case, then the claimed buddy list (of the message notification application 10) would be maintained on the messaging system server 120 of Cloutier. However, as previously discussed, Goldfinger teaches maintaining the active user list on the server 20. As such, the proposed combination of Goldfinger and Cloutier would maintain the active user list on the server 20 of Goldfinger, not on the messaging system server 120 of Cloutier as asserted within the Office Action. Therefore, maintaining an active user list on the server 20, as taught by Goldfinger, is not the same as maintaining a buddy list on the message notification application 10, as claimed.

Further, within the Advisory Action, it is stated that Cloutier teaches "a list of subscribers to the message notification system where the subscribers must provide a password to retrieve stored messages." It is asserted that such a list of subscribers is the same as the claimed "signing the user onto the message notification application by adding the user to a buddy list of the message notification application thereby associating the user to the one instant messaging service which the user is currently accessing." To support this assertion, column 5, lines 25-40 of Cloutier is cited. In column 5, lines 25-40, Cloutier teaches that the messaging system server 120 maintains a database of information regarding each subscriber. However, such a registration database is well known in the art and is used to maintain a list of subscriber information, where the information was provided by the subscriber during a previous registration process. Such a registration database does not include information regarding whether or not the subscriber is currently logged onto the service. In contrast, the claimed limitation is directed to adding the user to a buddy list thereby associating the user to the one instant messaging service which the user is currently accessing. Clearly, maintaining a registration database, as taught by Cloutier, is not the same as maintaining a list of users currently accessing a service.

Claims 1 and 3-7

The independent Claim 1 is directed to a method of providing message notification for a user. The method includes coupling a message notification application to a server, wherein the server stores messages for the user, registering the message notification application to at least one instant messaging service, accessing one of the at least one instant messaging service by the user, signing the user onto the message notification application by adding the user to a buddy list of the message notification application thereby associating the user to the one instant messaging service which the user is currently accessing, and sending an instant message notification from the

message notification application via the one instant messaging service to the user when a message arrives on the server for the user. As discussed above, there is not proper motivation to combine the communication system of Goldfinger with the messaging system of Cloutier. Further, the proposed combination of Cloutier in view of Goldfinger does not result in a viably functioning system. Still further, neither Cloutier, Goldfinger, nor their proposed combination teaches registering a message notification application to at least one instant messaging service. Still yet further, neither Cloutier, Goldfinger, nor their proposed combination teaches signing the user onto the message notification application by adding the user to a buddy list of the message notification application thereby associating the user to the one instant messaging service which the user is currently accessing. For at least these reasons, the independent Claim 1 is allowable over the combination of Goldfinger with Cloutier.

Claims 3-7 are dependent on independent Claim 1. As stated above, Claim 1 is allowable over the combination of Goldfinger with Cloutier. Accordingly, Claims 3-7 are also allowable as being dependent on an allowable base claim.

Claims 8 and 9-13

The independent Claim 8 is directed to an apparatus for providing message notification and allowing a user to instantly review new messages. The apparatus comprises at least one instant messaging service, a message notification application registered to the at least one instant messaging service, wherein the message notification application includes a buddy list onto which the user is added, thereby associating the user to one of the at least one instant message service that the user is currently using, a server for storing messages and providing a medium for the message notification application to operate, and an internet appliance to access the server and receive an instant message notification from the message notification application via the one instant messaging service, the instant message notification indicates that a new message is stored on the server for the user. As discussed above, there is not proper motivation to combine the communication system of Goldfinger with the messaging system of Cloutier. Further, the proposed combination of Cloutier in view of Goldfinger does not result in a viable functioning system. Still further, neither Cloutier, Goldfinger, nor their proposed combination teaches registering a message notification application to at least one instant messaging service. Still yet further, neither Cloutier, Goldfinger, nor their proposed combination teaches signing the user onto the message notification application by adding the user to a buddy list of the message notification application thereby associating the user to the one instant messaging service which the user is currently accessing. For at least these reasons, the independent Claim 8 is allowable over the

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combination of Goldfinger with Cloutier.

Claims 9-13 are dependent on independent Claim 8. As stated above, Claim 8 is allowable over the combination of Goldfinger with Cloutier. Accordingly, Claims 9-13 are also allowable as being dependent on an allowable base claim.

Claims 14 and 15-19

The independent Claim 14 is directed to a message notification system that allows the user to instantly review new messages. The message notification system comprises at least one instant messaging service, a message notification application registered to the at least one instant messaging service, wherein the message notification application includes a buddy list onto which the user is added, thereby associating the user to one of the at least one instant message service that the user is currently using, a server for storing messages and providing a medium for the message notification application to operate, and an internet appliance to access the server and receive an instant message notification from the message notification application via the one instant messaging service, the instant message notification indicates that a new message is stored on the server for the user. As discussed above, there is not proper motivation to combine the communication system of Goldfinger with the messaging system of Cloutier. Further, the proposed combination of Cloutier in view of Goldfinger does not result in a viable functioning system. Still further, neither Cloutier, Goldfinger, nor their proposed combination teaches registering a message notification application to at least one instant messaging service. Still yet further, neither Cloutier, Goldfinger, nor their proposed combination teaches signing the user onto the message notification application by adding the user to a buddy list of the message notification application thereby associating the user to the one instant messaging service which the user is currently accessing. For at least these reasons, the independent Claim 14 is allowable over the combination of Goldfinger with Cloutier.

Claims 15-19 are dependent on independent Claim 14. As stated above, Claim 14 is allowable over the combination of Goldfinger with Cloutier. Accordingly, Claims 15-19 are also allowable as being dependent on an allowable base claim.

Claims 20 and 22-26

The independent Claim 20 is directed to a message notification system for a user. The message notification system comprises means for coupling a message notification application to a server, wherein the server stores messages for the user, means for registering the message notification application to at least one instant messaging service, means for accessing one of the at

least one instant messaging service by the user, means for signing the user onto the message notification application by adding the user to a buddy list of the message notification application thereby associating the user to the one instant messaging service which the user is currently accessing, and means for sending an instant message notification from the message notification application via the one instant messaging service to the user when a message arrives on the server for the user. As discussed above, there is not proper motivation to combine the communication system of Goldfinger with the messaging system of Cloutier. Further, the proposed combination of Cloutier in view of Goldfinger does not result in a viable functioning system. Still further, neither Cloutier, Goldfinger, nor their proposed combination teaches registering a message notification application to at least one instant messaging service. Still yet further, neither Cloutier, Goldfinger, nor their proposed combination teaches signing the user onto the message notification application by adding the user to a buddy list of the message notification application thereby associating the user to the one instant messaging service which the user is currently accessing. For at least these reasons, the independent Claim 20 is allowable over the combination of Goldfinger with Cloutier.

Claims 22-26 are dependent on independent Claim 20. As stated above, Claim 20 is allowable over the combination of Goldfinger with Cloutier. Accordingly, Claims 22-26 are also allowable as being dependent on an allowable base claim.

Claim 27

The independent Claim 27 is directed to a method of providing a voice messaging notification application for a user in an instant messaging system. The method comprises the steps of coupling a message notification application to a server, wherein the server stores messages for the user, registering the message notification application to at least one instant messaging service, accessing one of the at least one instant messaging services by the user, adding the user to a buddy list of the message notification application, wherein the buddy list is associated with the one instant messaging service, sending an instant message notification to the user from the message notification application via the one instant messaging service when a message arrives on the server for the user, and allowing the user access to a server by one of using an internet appliance and using a telephone. As discussed above, there is not proper motivation to combine the communication system of Goldfinger with the messaging system of Cloutier. Further, the proposed combination of Cloutier in view of Goldfinger does not result in a viable functioning system. Still further, neither Cloutier, Goldfinger, nor their proposed combination teaches registering a message notification application to at least one instant messaging service.

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PATENT
Atty. Docket No.: AVALUC-01701

Still yet further, neither Cloutier, Goldfinger, nor their proposed combination teaches signing the user onto the message notification application by adding the user to a buddy list of the message notification application thereby associating the user to the one instant messaging service which the user is currently accessing. For at least these reasons, the independent Claim 27 is allowable over the combination of Goldfinger with Cloutier.

B.   CONCLUSION

It is therefore respectfully submitted that Claims 1, 3-20, and 22-27 are allowable over the teachings of Cloutier in view of Goldfinger. Therefore, a favorable indication is respectfully requested.

Respectfully submitted,
HAVERSTOCK & OWENS LLP

Dated: 9-8-05

By: _____
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VIII. **CLAIMS APPENDIX**

Claims Under Appeal

1.   A method of providing message notification for a user comprising the steps of:

    a.   coupling a message notification application to a server, wherein the server stores messages for the user;

    b.   registering the message notification application to at least one instant messaging service;

    c.   accessing one of the at least one instant messaging service by the user:

    d.   signing the user onto the message notification application by adding the user to a buddy list of the message notification application thereby associating the user to the one instant messaging service which the user is currently accessing; and

    e.   sending an instant message notification from the message notification application via the one instant messaging service to the user when a message arrives on the server for the user.

2.   (Canceled)

3.   The method as claimed in claim 1 further comprising the step of retrieving the message by accessing the server.

4.   The method as claimed in claim 3 wherein the server is one of an application, a voice messaging and a unified messaging server.

5.   The method as claimed in claim 3 further comprising the step of accessing the server by

one of sending a request to the message notification application and using a telephone.

6.   The method as claimed in claim 3 further comprising the step of retrieving messages from
      the server by an internet appliance.

7.   The method as claimed in claim 3 further comprising the step of deleting a message using
      an internet appliance without retrieving the message from the server.

8.   An apparatus for providing message notification and allowing a user to instantly review
      new messages comprising:
      a.   at least one instant messaging service;
      b.   a message notification application registered to the at least one instant messaging
            service, wherein the message notification application includes a buddy list onto
            which the user is added, thereby associating the user to one of the at least one
            instant message service that the user is currently using;
      c.   a server for storing messages and providing a medium for the message notification
            application to operate; and
      d.   an internet appliance to access the server and receive an instant message
            notification from the message notification application via the one instant
            messaging service, the instant message notification indicates that a new message is
            stored on the server for the user.

9.   The apparatus as claimed in claim 8 further comprising means for automatically adding the
      user to the buddy list of the message notification application in response to the user
      signing up to receive messages with the message notification application.

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10.   The apparatus as claimed in claim 8 wherein the message notification application comprises means for sending the user the instant message notification through the one instant messaging service when a message arrives for the user.

11.   The apparatus as claimed in claim 8 further comprising means for retrieving the message from the server by one of sending a request to the message notification application and using a telephone.

12.   The apparatus as claimed in claim 8 wherein the server is one of an application, a voice messaging and a unified messaging server.

13.   The apparatus as claimed in claim 8 further comprising means for deleting the message using the internet appliance without retrieving the message from the server.

14.   A message notification system that allows the user to instantly review new messages comprising:

     a.   at least one instant messaging service;

     b.   a message notification application registered to the at least one instant messaging service, wherein the message notification application includes a buddy list onto which the user is added, thereby associating the user to one of the at least one instant message service that the user is currently using;

     c.   a server for storing messages and providing a medium for the message notification application to operate; and

     d.   an internet appliance to access the server and receive an instant message notification from the message notification application via the one instant messaging service, the instant message notification indicates that a new message is

stored on the server for the user.

15.   The message notification system as claimed in claim 14 further comprising means for automatically adding the user to the buddy list of the message notification application in response to the user signing up to receive messages with the message notification application.

16.   The message notification system as claimed in claim 14 wherein the message notification application comprises means for sending the user the instant message notification through the one instant messaging service when a message arrives for the user.

17.   The message notification system as claimed in claim 14 further comprising means for retrieving the message from the server by one of sending a request to the message notification application and using a telephone.

18.   The message notification system as claimed in claim 14 wherein the server is one of an application, a voice messaging and a unified messaging server.

19.   The message notification system as claimed in claim 14 further comprising means for deleting the message using the internet appliance without retrieving the message from the server.

20.   A message notification system for a user comprising:

   a.   means for coupling a message notification application to a server, wherein the server stores messages for the user;

   b.   means for registering the message notification application to at least one instant

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messaging service;

   c.   means for accessing one of the at least one instant messaging service by the user:

   d.   means for signing the user onto the message notification application by adding the user to a buddy list of the message notification application thereby associating the user to the one instant messaging service which the user is currently accessing; and

   e.   means for sending an instant message notification from the message notification application via the one instant messaging service to the user when a message arrives on the server for the user.

21.   (Canceled)

22.   The message notification system as claimed in claim 20 further comprising means for the user to retrieve the message by accessing the server.

23.   The message notification system as claimed in claim 22 wherein the server is one of an application, a voice messaging and a unified messaging server.

24.   The message notification system as claimed in claim 22 wherein the user accesses the server by one of sending a request to the message notification application and using a telephone.

25.   The message notification system as claimed in claim 22 wherein the message is retrieved from the server by an internet appliance.

26.   The message notification system as claimed in claim 22 further comprising the step of deleting the message using the internet appliance without retrieving the message from the

server.

27. A method of providing a voice messaging notification application for a user in an instant messaging system comprising the steps of:

    a.   coupling a message notification application to a server, wherein the server stores messages for the user;

    b.   registering the message notification application to at least one instant messaging service;

    c.   accessing one of the at least one instant messaging services by the user;

    d.   adding the user to a buddy list of the message notification application, wherein the buddy list is associated with the one instant messaging service;

    e.   sending an instant message notification to the user from the message notification application via the one instant messaging service when a message arrives on the server for the user; and

    f.   allowing the user access to a server by one of using an internet appliance and using a telephone.

IX.   EVIDENCE APPENDIX

Pursuant to 37 C.F.R. § 41.37(c)(1)(ix), the following is a statement setting forth where in

the record the evidence of this appendix was entered by the examiner:

Evidence Description:	Where Entered:
U.S. Patent No. 6,449,344 to Goldfinger et al.	Paper No. 6 - Office Action mailed on December 31, 2003.
U.S. Patent No. 6,535,586 to Cloutier et al.	Paper No. 8 - Office Action mailed on April 15, 2004.
Office Action mailed on April 15, 2004.	Examiner Office Action
Amendment and Response filed June 15, 2004.	Advisory Action mailed October 6, 2004.
Advisory Action mailed October 6, 2004.	Examiner Advisory Action

X.   RELATED PROCEEDINGS APPENDIX

There are no other appeals or interferences related to the present patent application of which appellant is aware.